

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

IN RE: URETHANE)	
ANTITRUST LITIGATION,)	
_____)	MDL No. 1616
)	
This Document Relates to:)	Case No. 04-MD-1616-JWL
The Polyether Polyol Cases)	
_____)	

ORDER

This matter comes before the court on Plaintiffs' Motion for Approval of the Request of Urethane Contractors Supply Company Inc. and Specialty Products , Inc. to Withdraw Their Request for Exclusion from the Bayer Settlement Class (Doc. # 827). The court **grants** the motion.

On April 6, 2006, the court preliminarily approved the Bayer Settlement in this case and set June 9, 2006, as the deadline for class members to opt out of the class (Doc. # 291). On June 9, 2006, Urethane Contractors Supply Company Inc. and Specialty Products, Inc. (collectively, "SPI") sent their request for exclusion from the settlement class. On August 30, 2006, the court finally approved the Bayer Settlement and stated that those entities that had opted out "are not included in or bound by this Order and may individually pursue claims (if any) against the Bayer defendants," and that such entities "are not entitled to any recovery from the settlement proceeds obtained through this settlement" (Doc. # 425).

SPI now seeks to withdraw it request for exclusion from the Bayer Settlement

class. Class counsel, on behalf of plaintiffs, have consented to SPI's request to opt back in to the class, and plaintiffs have filed the instant motion for approval. The Bayer defendants do not oppose the motion. Nor has any other interested party filed an opposition to the motion.

SPI stated in its latest request that it has received no special benefit or advantage for its opting back in to the class, and no such special benefit or unfair prejudice to other parties has been shown. Moreover, there has not yet been a plan of allocation, dispersal of claims forms to plaintiffs, or distribution of the settlement proceeds. Accordingly, the court grants plaintiffs' motion and approves SPI's withdrawal of its request for exclusion from the Bayer Settlement. SPI may not individually pursue claims (if any) against the Bayer Defendants that are prohibited by the Bayer Settlement, and SPI will be entitled to file a proof of claim form for the Bayer Settlement. The Bayer Settlement class and the court's final order of approval of the settlement are hereby amended to allow SPI to submit a claim and participate in the settlement class.

IT IS THEREFORE ORDERED BY THE COURT THAT plaintiffs' motion for approval (Doc. # 827) is granted. The request by Urethane Contractors Supply Company Inc. and Specialty Products , Inc to withdraw their request for exclusion from the Bayer Settlement class is approved. The Bayer Settlement class and the court's final order of approval of the settlement are hereby amended to allow those parties to submit a claim and participate in the settlement class.

IT IS SO ORDERED.

Dated this 20th day of February, 2009, in Kansas City, Kansas.

s/ John W. Lungstrum
John W. Lungstrum
United States District Judge